

## EXHIBIT A

**PETER EBERT - March 31, 2005**

UNITED STATES DISTRICT COURT  
COMMONWEALTH OF MASSACHUSETTS

PAUL T. PAPADAKIS,

Plaintiff,

Vs.

CSX TRANSPORTATION,

Defendant.

EXAMINATION BEFORE TRIAL of a Non-Party  
Witness, PETER EBERT, held pursuant to Subpoena,  
returnable March 31, 2005, commencing at 10:00 a.m. at  
the Anderson Group, 125 Wolf Road, Albany, New York  
12205, before Kyle Alexy, a Shorthand Reporter and  
Notary Public in and for the State of New York.

APPEARANCES:

THORNTON & NAUMES, LLP, 100 Summer Street,  
Boston, Mass. 02110, (ROBERT M. BYRNE, ESQ., of  
Counsel), Attorneys for the Plaintiff.

FLYNN & ASSOCIATES, 400 Crown Colony Drive,  
Suite 200, Quincy, Mass. 02169, (MICHAEL B. FLYNN,  
ESQ., of Counsel), Attorneys for the Defendant.

ALSO PRESENT: Paul Papadakis, Gary Baker.

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1 there and pointing that out to Dick Ross?

2 MR. BYRNE: Objection.

3 A. I don't remember.

4 Q. Okay. When you operated the high rail device  
5 on 500285 or on any other 0307 high-rail gear, are  
6 you able to feel when that pivot stop arm hits the  
7 C-bar?

8 A. No, you are not able to feel that because it  
9 doesn't --

10 Q. Okay, what happens?

11 A. Exhibit 5, which is the correct bar, will  
12 then hit on Exhibit 8, this bumper.

13 Q. I see.

14 A. That bar comes down and hits that bumper.  
15 That stop does not come anywhere near that  
16 C-channel.

17 Q. What if you use the other bar?

18 A. Then the bar of Exhibit 3 will go in here  
19 straight and has nothing to stop on. The bumper has  
20 no bearing on this whole effect then --

21 Q. Okay.

22 A. -- at all.

23 Q. So the pivot stop arm, even if adjusted

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1 correctly, wouldn't prevent the socket from over  
2 ratcheting with the double bend bar used on it?

3 MR. BYRNE: Objection.

4 A. That pivot stop arm will mean nothing at all.  
5 And we had a high rail in Monday morning, and all of  
6 our adjustments were right, and that pivot stop arm  
7 did nothing.

8 Q. So you've actually experienced that.

9 A. I checked it Monday again.

10 Q. And you found out even with the pivot stop  
11 arm adjusted correctly you were still able to  
12 ratchet it over?

13 A. It goes over, and my thought on why it does  
14 it is because the socket is attached to the locking  
15 mechanism and it's worn.

16 Q. Okay.

17 A. A brand new factory unit, that quarter-inch  
18 is probably right on the money. The reason I still  
19 use a quarter-inch is because the second I start  
20 changing anything, puts TNT in the liability risk of  
21 you didn't do what the book says. So we do the book  
22 because that's what the book says. But Monday  
23 morning we brought one in, and I just said, Let me

**PETER E**

1 just see something. Me and Kevin went over, and  
2 there it was. It meant nothing.

3 Q. All right, now --

4 A. The bumper means everything.

5 Q. The front bumper.

6 A. Or the rear. The bumper and the correct bar  
7 is the answer.

8 Q. Now you also understand that the -- you  
9 called it, I believe -- well, if we look at Exhibit  
10 5, figure 2-1 in the manual, the device designated  
11 or identified as number 4, that's called a locking  
12 pawl handle.

13 A. That's correct.

14 Q. Okay, and that's what you understand it to  
15 be, right?

16 A. Yes.

17 Q. And if we look at Exhibit number 8 we can see  
18 that handle right in the middle of the photograph,  
19 right?

20 A. Yes.

21 Q. And it's a maroon-brownish handle, plastic  
22 handle on a bent steel rod?

23 A. Rod.